



September 25, 2020

Via email and first-class mail to:

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Re: Pebble Limited Partnership Clean Water Act application (POA-2017-271)

Assistant Secretary James and Lieutenant General Spellmon:

We write with requests related to Pebble Limited Partnership's (PLP) Clean Water Act permit application. As tribal, community and economic leaders of Bristol Bay, the region that has so deeply been harmed by PLP's deceptive practices over many years, we both deserve and expect prompt responses from our government to these requests.

As you know, PLP filed a permit application focused on a 20-year mine plan. PLP explicitly designed this plan in response to the massive opposition to the mine from the people of Bristol Bay, and sold it to the Corps and the public as their true aim.

The release of the so-called "[Pebble Tapes](#)" confirms what we have known, and communicated to the Corps, for some time; that PLP crafted an artificially small mining plan as part of a scheme to increase the chances of it gaining a permit. What the Tapes thus prove, to a certainty, is that PLP's permit application was not "complete and accurate," as PLP is required to certify in submitting the application. See Item 27 of ENG Form 4345, PLP original and revised permit applications. We therefore request that the Corps deny PLP's permit application on these grounds.

As we are sure you are aware, the Pebble Tapes contain audio and video recordings of Ronald Thiessen, CEO of PLP's parent company Northern Dynasty Minerals (NDM), and Tom Collier, then-CEO of PLP, speaking frankly about manipulating the permit application to obfuscate the company's true intent for mining the Pebble deposit. Neither Thiessen nor Collier contest the validity of the tapes or their content, and in fact Collier resigned from PLP because the release of the tapes exposed his deceptive and deceitful ways through his own voice.

While examples of PLP and NDM's deceptiveness are legion throughout the recordings, and widely reported in media throughout the country, Alaska and Bristol Bay, we provide some examples here of items not disclosed in PLP's permit application to the Corps:

- Thiessen and Collier state that the plan is to mine for 180-200 years. [Tape 1](#) (transcript), [Tape 9](#) (transcript).
- Thiessen responds with a "yes" when asked whether the 180+ year plan is "the objective," and also agrees that they are "locked in" to the longer mine. [Tape 1](#) (transcript).
- Thiessen notes that the only uncertainty related to the 180+ year plan is how they do it, not whether they do it – "The only thing that we have to do additionally is determine will there be more open pit exclusively or will we also do some underground mining like bulk underground mining, block-caving." [Tape 1](#) (transcript).
- Thiessen reveals that "joining forces" with Donlin is part of the plan, which they would not effectuate until the permit is issued. [Tape 2](#) (transcript).
- Thiessen states that they are planning on State of Alaska funding for the road and port infrastructure. [Tape 2](#) (transcript).
- Thiessen states that they purposely set up the corporate structure to limit liability and risk to NDM. [Tape 8](#) (transcript).
- Thiessen states that "this water that we gather up will qualify ultimately under environmental standards for discharge without treatment," [Tape 9](#) (transcript).

PLP disclosed none of these points in its permit applications or subsequent submissions to the permitting process. In fact, PLP actively presented information to the Corps in its application and throughout the permitting process that is inconsistent with these points. For example, a key component of PLP's plan and permit application and the Corps' analysis of the project's impacts was that the mine would close after 20 years with waste tailings backfilled into the mine pit at that time. This proposal is designed with no room for mine expansion and would preclude further mining of the ore deposit. This proposal, relied on by the Corps and refuted by the Tapes, was a ruse put in place by PLP in an attempt to conceal the project's true impacts and gain permit approval. Further, PLP's water treatment approach submitted to the Corps did not address discharge of mine water without treatment.

The now-irrefutable proof of NDM and PLP's duplicity renders unusable and illegitimate the Final Environmental Impact Statement for the Pebble Project as a document to support a Corps' decision to grant PLP a permit. It is a testament to Pebble's high risk that even focusing on a 20-year mine proposal the Final EIS discloses over 2,800 acres of lost wetlands, nearly 130 miles of lost streams, and over 130 acres of lost open waters. Impacts of a 180 to 200-year plan, as Thiessen describes in the recordings, would be astounding. Nowhere in the EIS are such impacts acknowledged, much less robustly analyzed.

And notably PLP's compensatory mitigation plan is unquestionably stale even before it is presented to the Corps. That plan is focused on mitigating the impacts identified above, plus impacts associated with the transportation corridor and the port site, not the 180 to 200-year mine that is PLP's true aim.

The necessary Clean Water Act findings required by the Section 404(b)(1) guidelines must also focus on NDM and PLP's true aim of mining the entire Pebble deposit and not the false 20-year mine proposal. Notably, as it is, the Corps last month announced that

[a]s part of the ROD the District made Clean Water Act Section 404(b)(1) factual determinations that discharges at the mine site would cause unavoidable adverse impacts to aquatic resources and, preliminarily, that those adverse impacts would result in significant degradation to those aquatic resources.

Corps letter to PLP, August 20, 2020.

In short, the Corps should deny the permit now, and the record robustly supports if not mandates that it do so. This denial need not necessarily be with prejudice to PLP submitting a new permit application focused on its true aim – though the deceptive actions of NDM and PLP, perpetrated on the U.S. Government, the people of Bristol Bay and other stakeholders by NDM and PLP, with all of its time, money and opportunity cost consequences, certainly justifies that result.

Inherent in this request is an expectation that the Corps will include the Pebble Tapes in the administrative record for PLP's permit application. The tapes are evidence of the NDM and PLP CEO's own words and intent regarding the mining of the Pebble deposit, available during the pendency of the permitting process, and thus clearly should be part of that record. Should it choose not to do so, we request a communication from the Corps relaying that decision and the reasons for it.

The visceral confirmation the Pebble Tapes provide of PLP's deceptiveness also raises questions about the integrity of the Corps' permitting process, including whether certain Corps employees were complicit in that scheme. In this light, should the Corps continue to process PLP's permit application, including the consideration of any compensatory mitigation plan and the preparation of a Record of Decision, we request that the responsibility for reviewing and deciding upon the PLP permit application be removed from the Alaska District. Given the revelations in the Pebble Tapes and our collective experiences in the permitting process, we have no confidence in the Alaska District's ability to make a fair, objective, and science-based decision on this permit.

Relatedly, we ask for a public review and comment period on any compensatory mitigation plan that PLP may submit. As detailed in previous communications with the Corps, the Corps has a legal obligation to do this, and the Pebble Tapes call into question the Corps' objectivity in considering and ultimately rejecting that request.

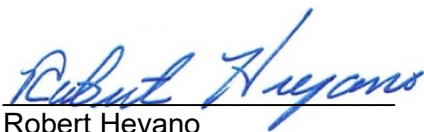
Finally, we request that you forward a potential violation of 18 U.S.C. Section 1001, related to PLP's certification of the permit application, to the U.S. Department of Justice for investigation. This law provides that:

Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up any trick, scheme or disguises any material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious, or fraudulent statements or entry, shall be fined not more than \$10,000 or imprisoned not more than five years or both.

The Department of Justice can investigate and answer the question whether PLP and/or the employee who signed those applications violated this law.

As we have discussed many times with the Corps at all levels and without satisfactory resolution, PLP has been playing fast and loose with the permitting process since day one, and doing so to advance a project that literally risks thousands of years of subsistence and cultural reliance on the wild salmon of Bristol Bay, as well as Bristol Bay's robust and uniquely resilient salmon-based economy. These latest revelations are consistent with everything our organizations have stated about PLP's application and PLP's undue influence over the permit process. Taking immediate action in line with the above requests will demonstrate that the Corps is committed to righting its course and restoring integrity to the Clean Water Act permitting process. Not to take action is to further the mental stress, physical harm and distractions, and economic opportunity cost that PLP has inflicted on Bristol Bay for well over a decade.

Sincerely,



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